IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. 112 OF 2005

Rahul S. Thakur] .. Petitioner

Versus

1. The Commissioner of Police, Navi Mumbai & 3 ors.] .. Respondents

Mr. Rahul S. Thakur - the petitioner-in person.

Mr. P.M. Patil, AGP, for the respondents No.1 to 4.

CORAM: R.M. LODHA &
NARESH H. PATIL, JJ.

DATED: 27TH JULY, 2006

ORAL ORDER : [Per R.M. Lodha, J.]

. The Director General of Police has submitted the report as was directed in the orders dated 19th October, 2005 and dated 28th June, 2006.

2. In paragraph 1 of the report the Director General has noticed the prayers made in this Public Interest Litigation by observing thus:

> "The petitioner Seri Rahul S. Thakur, r/o Vashi, Navi Mumbai has filed the aforesaid P.I.L. before the Hon'ble High Court, Mumbai with the following main prayers, viz.

> (a) That Respondent nos.1 and 2 (i.e. Commr. of Police, Navi Mumbai and Director General of Police, M.S., Mumbai) be directed to immediately stop the practice of stripping accused persons and confining them to custody without any cloth and keeping them in such inhuman and undignified conditions;
>
> (b) Immediately provide funds for undertaking repairs, renovation of P.Stns. through out the State to provide essential facilities i.e. electricity, fans, lights, toilets and lavatories, drinking water, bedding essential furniture for upkeep of human dignity and make them facilities available for the accused persons."

3. In paragraph 4 of the report, the Director General has noticed the important points that have emerged from various reports received by this Court. He summarised these points thus:

> (a) No fans have been provided in the lock-ups, because of the fear that the inmates kept in the lock-ups will attempt to suicide, because of the frustration caused to them, due to their arrest. In fact, it will not be out of place to mention here that there are instances occurred in the State, in which the suspect kept in police lock-ups have committed suicides by adopting such tactics and hanging themselves. However, wherever possible pedestal fans are provided outside the lockups.
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> (b) No electricity connections, with tube-lights have also not been provided in the lock-ups, again due to the fear felt to

the police that the same will be misused by the inmates, being lodged in the police lock-ups, either for getting themselves hurt or attempting suicide, because of the frustration caused to them, due to their arrest. However, sufficient lighting arrangement outside the lock-ups is provided, instead.

(c) It ha also been observed that at number of places of police lock-ups the W.Cs., Urinals and bathroom are not attached to the Cells. However, they are given these facilities, outside the cell, with the help of the police personnel on duties at the P.Stns.

(d) The drinking water facilities in the lock-ups itself is not provided. However, it is being provided from the outside lockups, whenever demanded by the inmates.

(e) Although at the most of places, bedding facilities is being provided, yet at some places, there is requirement of the same.

(f) It is also evident from the reports received from some of Unit Commanders that police lock-ups need either renovation or there is requirement for constructions of new police-lockups.

(g) It is also noticed that at some places, there is necessity of constructions of Police Guardrooms, to keep tab on the activities of the inmates kept in the Police Lock-ups.

4. In paragraph 5 of the report, he has stated that for the financial year 2006-2007, an amount of Rs.43 crores has been sanctioned for repairs of Police Stations by the Government and out of these funds, work of repairs of lock-ups including renovation,

construction of guard rooms etc. will be done with the prior approval of the Government. In the concluding paragraph of the report, he has stated that insofar as provision of bedding facilities to the inmates kept in lock-ups is concerned, the issue will be sorted out in consultation with the Inspector General of Prisons, Maharashtra and every possible effort will be taken to provide requisite bedding facilities as entitled pursuant to the prevalent rules and regulations.

Stripping of the clothes:

5. The reports submitted by various District Judges in compliance of the order of this Court were placed before us for our perusal. It transpires therefrom that in many lock-ups, the Police confine accused persons into custody without any clothes, save and except their undergarments/shorts. According to these reports, this practice is prevalent in urban areas and Mumbai Police seems to be doing worst in this regard. The report of the Director General of Police is totally silent about this aspect. Mr. P.M. Patil, the Assistant Government Pleader admitted that the report of the Director General of Police does not deal with this aspect. However, he would submit that the accused persons on their own, many a time, remove the clothes

from their person to project that they are being kept in the Police lock-up in inhuman and undignified condition.

6. The Supreme Court as well as the High Courts have time and again held that a prisoner does not cease to have basic human rights merely because he has been imprisoned or put in Police lock-up. The prisoner or an accused person in the Police lock-up has a right to bare necessity of clothing. If there is any practice of stripping accused persons in the Police lock-up in the State of Maharashtra, it has to be stopped forthwith. We, accordingly, direct that appropriate directives shall be issued by the Director General of Police to all Police Stations that the accused persons shall not be stripped of their clothes and one set of clothes is made available to inmates in Police lock-up all the time.

Drinking water :

7. The Director General of Police has in his report stated that the drinking water facility in the lock-ups itself is not provided, but it is being provided from the outside lock-up whenever demanded by the inmates. We find no logic in the idea of not providing potable drinking water inside the Police lock-ups. It needs no emphasis that drinking water is

most essential necessity for any human being and the provision for it needs to be made inside the lock-ups. We direct that the Director General of Police shall take appropriate steps in ensuring that inside all Police lock-ups in the State of Maharashtra, the drinking water facility is made available either by providing running tap or receptacle having capacity of minimum two litres. This direction shall be implemented within one month from today.

Bedding :

8. With regard to the petitioner's grievance that facilities for bedding are nonexistent in Police lock-ups, the Director General in his report has stated that although at most of the places bedding facility is being provided, yet at some places there is requirement of the same. He has stated that this issue will be sorted out in consultation with the Inspector General of Prisons, Maharashtra and every possible effort will be taken to provide bedding facilities as entitled, pursuant to the prevalent rules and regulations. We direct that within a period of one month, all Police lock-ups in the State of Maharashtra shall be provided with required bedding facilities as entitled pursuant to existing rules and regulations.

Electricity :

9. As regards the petitioner's grievance that the Police lock-ups do not have electricity connection or fans, we find merit in the explanation given by the Director General of Police that there will be constant fear that the inmates kept in the lock-up having fans or electricity may attempt to commit suicide. We are thus satisfied that no direction needs to be issued for provision of electricity and fans in the Police lock-ups.

W.C./Urinal/Bathroom :

10. In so far as the provision of W.C., urinal and/or bathroom attached to Police lock-ups is concerned, the Director General in his report has stated that these facilities are given with the help of police personnel on duty at the Police Station. We may observe that since a sum of Rs.43 crores is being spent for repairs of Police Stations and repairs of lock-ups including renovation in the current financial year, the Director General of Police may consider the feasibility of providing WC/urinal/bathroom in Police lock-ups in phased manner.

11. The compliance report shall be submitted by the respondent No.2 to the Registrar General of this Court by 31st October, 2006.

. The Writ Petition is disposed of accordingly.

Sd/-
[R.M. LODHA, J.]

Sd/-
[NARESH H. PATIL, J.]